

109TH CONGRESS
1ST SESSION

H. R. 458

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2005

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To prevent the sale of abusive insurance and investment
products to military personnel, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Military Personnel Financial Services Protection Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INSURANCE AND INVESTMENT PRODUCTS

Sec. 101. Congressional findings.

Sec. 102. Prohibition on future sales of periodic payment plans.

Sec. 103. Method of maintaining broker/dealer registration, disciplinary, and
other data.

Sec. 104. Filing depositories for investment advisers.

Sec. 105. State insurance and securities jurisdiction on military installations.

Sec. 106. Required development of military personnel protection standards re-
garding insurance sales.

Sec. 107. Required disclosures regarding life insurance.

Sec. 108. Improving life insurance product standards.

Sec. 109. Required reporting of disciplined insurance producers.

Sec. 110. Reporting barred persons engaging in financial services activities.

Sec. 111. Sense of Congress.

Sec. 112. Definitions.

TITLE II—LENDING TO ARMED FORCES PERSONNEL

Sec. 201. Requirements applicable to certain loans to military servicemembers.

6 **TITLE I—INSURANCE AND**
7 **INVESTMENT PRODUCTS**

8 **SEC. 101. CONGRESSIONAL FINDINGS.**

9 The Congress finds the following:

10 (1) Our military personnel perform great sac-
11 rifices in protecting our Nation in the War on Ter-
12 ror and promoting democracy abroad.

13 (2) Our brave men and women in uniform de-
14 serve to be offered first-rate financial products in
15 order to provide for their families and to save and
16 invest for retirement.

1 (3) Our military personnel are being offered
2 high-cost securities and life insurance products by
3 some financial services companies engaging in abu-
4 sive and misleading sales practices.

5 (4) One securities product being offered to our
6 service members, the contractual plan, has largely
7 disappeared from the civilian market since the 1980s
8 due to its excessive sales charges and the emergence
9 of low-cost products. A 50-percent sales commission
10 is typically assessed against the first year of con-
11 tributions made under a contractual plan, even
12 though the average commission on other securities
13 products such as mutual funds is less than 6 percent
14 on each sale.

15 (5) The excessive sales charge of the contrac-
16 tual plan makes it susceptible to abusive and mis-
17 leading sales practices.

18 (6) Certain life insurance products being of-
19 fered to our service members are being improperly
20 marketed as investment products. These products
21 provide very low death benefits for very high pre-
22 miums that are front-loaded in the first few years,
23 making them completely inappropriate for most mili-
24 tary personnel.

1 (7) Regulation of these securities and life insur-
2 ance products and their sale on military bases has
3 been clearly inadequate and requires Congressional
4 legislation to address.

5 **SEC. 102. PROHIBITION ON FUTURE SALES OF PERIODIC**
6 **PAYMENT PLANS.**

7 (a) AMENDMENT.—Section 27 of the Investment
8 Company Act of 1940 (15 U.S.C. 80a–27) is amended by
9 adding at the end the following new subsection:

10 “(j) TERMINATION OF SALES.—

11 “(1) TERMINATION.—Effective 30 days after
12 the date of enactment of the Military Personnel Fi-
13 nancial Services Protection Act, it shall be unlawful,
14 subject to subsection (i)—

15 “(A) for any registered investment com-
16 pany to issue any periodic payment plan certifi-
17 cate; or

18 “(B) for such company, or any depositor of
19 or underwriter for any such company, or any
20 other person, to sell such a certificate.

21 “(2) NO INVALIDATION OF EXISTING CERTIFI-
22 CATES.—Paragraph (1) shall not be construed to
23 alter, invalidate, or otherwise affect any rights or ob-
24 ligations, including rights of redemption, under any

1 periodic payment plan certificate issued and sold be-
2 fore 30 days after such date of enactment.”.

3 (b) TECHNICAL AMENDMENT.—Section 27(i)(2)(B)
4 of such Act is amended by striking “section 26(e)” each
5 place it appears and inserting “section 26(f)”.

6 (c) REPORT ON REFUNDS, SALES PRACTICES, AND
7 REVENUES FROM PERIODIC PAYMENT PLANS.—Within 6
8 months after the date of enactment of this Act, the Securi-
9 ties and Exchange Commission shall submit to the Com-
10 mittee on Financial Services of the House of Representa-
11 tives and the Committee on Banking, Housing, and Urban
12 Affairs of the Senate, a report describing—

13 (1) any measures taken by a broker or dealer
14 registered with the Securities and Exchange Com-
15 mission pursuant to section 15(b) of the Securities
16 Exchange Act of 1934 (15 U.S.C. 78o(b)) to volun-
17 tarily refund payments made by military service
18 members on any periodic payment plan certificate,
19 and the amounts of such refunds;

20 (2) after such consultation with the Secretary
21 of Defense as the Commission considers appropriate,
22 the sales practices of such brokers or dealers on
23 military installations over the past 5 years and any
24 legislative or regulatory recommendations to improve
25 such practices; and

1 (3) the revenues generated by such brokers or
 2 dealers in the sales of periodic payment plan certifi-
 3 cates over the past 5 years and what products such
 4 brokers or dealers market to replace the revenue
 5 generated from the sales of periodic payment plan
 6 certificates prohibited under subsection (a) of this
 7 section.

8 **SEC. 103. METHOD OF MAINTAINING BROKER/DEALER REG-**
 9 **ISTRATION, DISCIPLINARY, AND OTHER**
 10 **DATA.**

11 Subsection (i) of section 15A of the Securities Ex-
 12 change Act of 1934 (15 U.S.C. 78o-3(i)) is amended to
 13 read as follows:

14 “(i) OBLIGATION TO MAINTAIN REGISTRATION, DIS-
 15 CIPLINARY, AND OTHER DATA.—

16 “(1) MAINTENANCE OF SYSTEM TO RESPOND
 17 TO INQUIRIES.—A registered securities association
 18 shall—

19 “(A) establish and maintain a system for
 20 collecting and retaining registration informa-
 21 tion;

22 “(B) establish and maintain a toll-free
 23 telephone listing, and a readily accessible elec-
 24 tronic or other process, to receive and promptly
 25 respond to inquiries regarding—

1 “(i) registration information on its
2 members and their associated persons; and

3 “(ii) registration information on the
4 members and their associated persons of
5 any registered national securities exchange
6 that uses the system described in subpara-
7 graph (A) for the registration of its mem-
8 bers and their associated persons; and

9 “(C) adopt rules governing the process for
10 making inquiries and the type, scope, and pres-
11 entation of information to be provided in re-
12 sponse to such inquiries in consultation with
13 any registered national securities exchange pro-
14 viding information pursuant to subparagraph
15 (B)(ii).

16 “(2) RECOVERY OF COSTS.—Such an associa-
17 tion may charge persons making inquiries, other
18 than individual investors, reasonable fees for re-
19 sponses to such inquiries.

20 “(3) PROCESS FOR DISPUTED INFORMATION.—
21 Such an association shall adopt rules establishing an
22 administrative process for disputing the accuracy of
23 information provided in response to inquiries under
24 this subsection in consultation with any registered

1 national securities exchange providing information
 2 pursuant to paragraph (1)(B)(ii).

3 “(4) LIMITATION OF LIABILITY.—Such an asso-
 4 ciation, or an exchange reporting information to
 5 such an association, shall not have any liability to
 6 any person for any actions taken or omitted in good
 7 faith under this subsection.

8 “(5) DEFINITION.—For purposes of this sub-
 9 section, the term ‘registration information’ means
 10 the information reported in connection with the reg-
 11 istration or licensing of brokers and dealers and
 12 their associated persons, including disciplinary ac-
 13 tions, regulatory, judicial, and arbitration pro-
 14 ceedings, and other information required by law, or
 15 exchange or association rule, and the source and sta-
 16 tus of such information.”.

17 **SEC. 104. FILING DEPOSITORIES FOR INVESTMENT ADVIS-**
 18 **ERS.**

19 (a) AMENDMENT.—Section 204 of the Investment
 20 Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

21 (1) by striking “Every investment” and insert-
 22 ing the following:

23 “(a) IN GENERAL.—Every investment”; and

24 (2) by adding at the end the following:

1 “(b) FILING DEPOSITORIES.—The Commission may,
2 by rule, require an investment adviser—

3 “(1) to file with the Commission any fee, appli-
4 cation, report, or notice required to be filed by this
5 title or the rules issued under this title through any
6 entity designated by the Commission for that pur-
7 pose; and

8 “(2) to pay the reasonable costs associated with
9 such filing and the establishment and maintenance
10 of the systems required by subsection (c).

11 “(c) ACCESS TO DISCIPLINARY AND OTHER INFOR-
12 MATION.—

13 “(1) MAINTENANCE OF SYSTEM TO RESPOND
14 TO INQUIRIES.—The Commission shall require the
15 entity designated by the Commission under sub-
16 section (b)(1) to establish and maintain a toll-free
17 telephone listing, or a readily accessible electronic or
18 other process, to receive and promptly respond to in-
19 quires regarding information (including disciplinary
20 actions, regulatory, judicial, and arbitration pro-
21 ceedings, and other information required by law or
22 rule to be reported) involving investment advisers
23 and persons associated with investment advisers.
24 Such information shall include information on an in-
25 vestment adviser (and the persons associated with

1 that adviser) whether the investment adviser is reg-
2 istered with the Commission under section 203 or
3 regulated solely by a State as described in section
4 203A.

5 “(2) RECOVERY OF COSTS.—An entity des-
6 ignated by the Commission under subsection (b)(1)
7 may charge persons making inquiries, other than in-
8 dividual investors, reasonable fees for responses to
9 inquiries made under paragraph (1).

10 “(3) LIMITATION ON LIABILITY.—An entity
11 designated by the Commission under subsection
12 (b)(1) shall not have any liability to any person for
13 any actions taken or omitted in good faith under
14 this subsection.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 203A of the Investment Advisers
17 Act of 1940 (15 U.S.C. 80b–3a) is amended—

18 (A) by striking subsection (d); and

19 (B) by redesignating subsection (e) as sub-
20 section (d).

21 (2) Section 306 of the National Securities Mar-
22 kets Improvement Act of 1996 (15 U.S.C. 80b–10,
23 note; Public Law 104–290; 110 Stat. 3439) is re-
24 pealed.

1 **SEC. 105. STATE INSURANCE AND SECURITIES JURISDIC-**
2 **TION ON MILITARY INSTALLATIONS.**

3 (a) CLARIFICATION OF JURISDICTION.—Any law,
4 regulation, or order of a State with respect to regulating
5 the business of insurance or the offer or sale (or both)
6 of securities shall apply to such activities conducted on
7 Federal land or facilities in the United States and abroad,
8 including military installations, except to the extent that
9 such law, regulation, or order—

10 (1) directly conflicts with any applicable Fed-
11 eral law, regulation, or authorized directive; or

12 (2) would not apply if such activity were con-
13 ducted on State land.

14 (b) PRIMARY STATE JURISDICTION.—To the extent
15 that multiple State laws would otherwise apply pursuant
16 to subsection (a) to an insurance or securities activity of
17 an individual or entity on Federal land or facilities, the
18 State having the primary duty to regulate such activity
19 and whose laws shall apply to such activity in the case
20 of a conflict shall be—

21 (1) the State within which the Federal land or
22 facility is located; or

23 (2) if the Federal land or facility is located out-
24 side of the United States, the State in which—

1 (A) in the case of an individual engaged in
2 the business of insurance, such individual has
3 been issued a resident license;

4 (B) in the case of an individual engaged in
5 the offer or sale (or both) of securities, such in-
6 dividual is registered or required to be reg-
7 istered to do business or the person solicited by
8 such individual resides;

9 (C) in the case of an entity engaged in the
10 business of insurance, such entity is domiciled;
11 or

12 (D) in the case of an entity engaged in the
13 offer or sale (or both) of securities, such entity
14 is registered or is required to be registered to
15 do business or the person solicited by such enti-
16 ty resides.

17 **SEC. 106. REQUIRED DEVELOPMENT OF MILITARY PER-**
18 **SONNEL PROTECTION STANDARDS REGARD-**
19 **ING INSURANCE SALES.**

20 (a) STATE STANDARDS.—The Congress intends
21 that—

22 (1) the States collectively work with the Sec-
23 retary of Defense to ensure implementation of ap-
24 propriate standards to protect members of the
25 Armed Forces from dishonest and predatory insur-

1 ance sales practices while on a military installation
2 of the United States (including installations located
3 outside of the United States); and

4 (2) each State identify its role in promoting the
5 standards described in paragraph (1) in a uniform
6 manner within 12 months after the date of the en-
7 actment of this Act.

8 (b) STATE REPORT.—It is the sense of the Congress
9 that the NAIC should, after consultation with the Sec-
10 retary of Defense and within 12 months after the date
11 of the enactment of this Act, conduct a study to determine
12 the extent to which the States have met the requirement
13 of subsection (a) and report such study to the Committee
14 on Financial Services of the House of Representatives and
15 the Committee on Banking, Housing, and Urban Affairs
16 of the Senate.

17 **SEC. 107. REQUIRED DISCLOSURES REGARDING LIFE IN-**
18 **SURANCE.**

19 (a) REQUIREMENT.—Except as provided in sub-
20 section (d), no insurer or producer may sell or solicit, in
21 person, any life insurance product to any member of the
22 Armed Forces on a military installation of the United
23 States unless a disclosure in accordance with this section
24 is provided to such member before the sale of such insur-
25 ance.

1 (b) DISCLOSURE.—A disclosure in accordance with
2 this section is a written disclosure that—

3 (1) states that subsidized life insurance may be
4 available to the member of the Armed Forces from
5 the Federal Government;

6 (2) states that the United States Government
7 has in no way sanctioned, recommended, or encour-
8 aged the sale of the product being offered;

9 (3) is made in plain and readily understandable
10 language and in a type font at least as large as the
11 font used for the majority of the policy; and

12 (4) with respect to a sale or solicitation on Fed-
13 eral land or facilities located outside of the United
14 States by an individual or entity engaged in the
15 business of insurance, except to the extent otherwise
16 specifically provided by the laws of such State in ref-
17 erence to this Act, lists the address and phone num-
18 ber where consumer complaints are received by the
19 State insurance commissioner for the State in which
20 the individual has been issued a resident license or
21 the entity is domiciled, as applicable.

22 (c) ENFORCEMENT.—If it is determined by a State
23 or Federal agency, or in a final court proceeding, that any
24 individual or entity has intentionally failed to provide a
25 disclosure required by this section, such individual or enti-

1 ty shall be prohibited from further engaging in the busi-
2 ness of insurance with respect to employees of the Federal
3 Government on Federal land, except—

4 (1) with respect to existing policies; and

5 (2) to the extent required by the Federal Gov-
6 ernment pursuant to previous commitments.

7 (d) EXCEPTIONS.—

8 (1) FEDERAL AND STATE INSURANCE ACTIV-
9 ITY.—This section shall not apply to insurance ac-
10 tivities—

11 (A) specifically contracted by or through
12 the Federal Government or any State govern-
13 ment; or

14 (B) specifically exempted from the applica-
15 bility of this Act by a Federal or State law, reg-
16 ulation, or order that specifically refers to this
17 paragraph.

18 (2) UNIFORM STATE STANDARDS.—If a major-
19 ity of the States have adopted, in materially iden-
20 tical form, a standard setting forth the disclosures
21 required under this section that apply to insurance
22 solicitations and sales to military personnel on mili-
23 tary installations of the United States, after the ex-
24 piration of the 2-year period beginning on such ma-
25 jority adoption, such standard shall apply in lieu of

1 the requirements of this section to all insurance so-
2 licitations and sales to military personnel on military
3 installations, with respect to such States, to the ex-
4 tent that such standards do not directly conflict with
5 any applicable authorized Federal regulation or di-
6 rective.

7 (3) MATERIALLY IDENTICAL FORM.—For pur-
8 poses of this subsection, standards adopted by more
9 than one State shall be considered to have materially
10 identical form to the extent that such standards re-
11 quire or prohibit identical conduct with respect to
12 the same activity, notwithstanding that the stand-
13 ards may differ with respect to conduct required or
14 prohibited with respect to other activities.

15 **SEC. 108. IMPROVING LIFE INSURANCE PRODUCT STAND-**
16 **ARDS.**

17 (a) IN GENERAL.—It is the sense of the Congress
18 that the NAIC should, after consultation with the Sec-
19 retary of Defense and within 12 months after the date
20 of the enactment of this Act, conduct a study and submit
21 a report to the Committee on Financial Services of the
22 House of Representatives and the Committee on Banking,
23 Housing, and Urban Affairs of the Senate on ways of im-
24 proving the quality of and sale of life insurance products
25 sold by insurers and producers on military installations

1 of the United States, which may include limiting sales au-
2 thority to companies and producers that are certified as
3 meeting appropriate best practices procedures or creating
4 standards for products specifically designed for members
5 of the Armed Forces regardless of the sales location.

6 (b) **CONDITIONAL GAO REPORT.**—If the NAIC does
7 not submit the report to the committees as described in
8 subsection (a), the Comptroller General of the United
9 States shall study any proposals that have been made to
10 improve the quality and sale of life insurance products sold
11 by insurers and producers on military installations of the
12 United States and report to the Committee on Financial
13 Services of the House of Representatives and the Com-
14 mittee on Banking, Housing, and Urban Affairs of the
15 Senate on such proposals within 6 months after the expi-
16 ration of the period referred to in subsection (a).

17 **SEC. 109. REQUIRED REPORTING OF DISCIPLINED INSUR-**
18 **ANCE PRODUCERS.**

19 (a) **REPORTING BY INSURERS.**—After the expiration
20 of the 2-year period beginning on the date of the enact-
21 ment of this Act, no insurer may enter into or renew a
22 contractual relationship with a producer that solicits or
23 sells life insurance on military installations of the United
24 States unless the insurer has implemented a system to re-
25 port, to the State insurance commissioner of the State of

1 the domicile of the insurer and the State of residence of
2 the insurance producer, disciplinary actions taken against
3 the producer with respect to the producer's sales or solici-
4 tation of insurance on a military installation of the United
5 States, as follows:

6 (1) Any disciplinary action taken by any gov-
7 ernment entity that the insurer knows has been
8 taken.

9 (2) Any significant disciplinary action taken by
10 the insurer.

11 (b) REPORTING BY STATES.—It is the sense of the
12 Congress that within 2 years after the date of the enact-
13 ment of this Act, the States should collectively implement
14 a system to—

15 (1) receive reports of disciplinary actions taken
16 against insurance producers by insurers or govern-
17 ment entities with respect to the producers' sale or
18 solicitation of insurance on a military installation;
19 and

20 (2) disseminate such information to all other
21 States and to the Secretary of Defense.

22 **SEC. 110. REPORTING BARRED PERSONS ENGAGING IN FI-**
23 **NANCIAL SERVICES ACTIVITIES.**

24 (a) ESTABLISHMENT.—The Secretary of Defense
25 shall maintain a list of the name, address, and other ap-

1 appropriate information of persons engaged in financial serv-
2 ices activities that have been barred, banned, or otherwise
3 limited in any manner that is not generally applicable to
4 all such type of persons, from any or all military installa-
5 tions of the United States or from patronage by military
6 members.

7 (b) NOTICE AND ACCESS.—The Secretary shall en-
8 sure that—

9 (1) the appropriate Federal and State agencies
10 responsible for any financial services regulation are
11 promptly notified upon the inclusion or removal of a
12 person under such agencies' jurisdiction; and

13 (2) the list is kept current and easily acces-
14 sible—

15 (A) for use by such agencies; and

16 (B) for purposes of enforcing or consid-
17 ering any such bar, ban, or limitation by the
18 appropriate Federal personnel, including com-
19 manders of military installations.

20 (c) REGULATIONS.—

21 (1) IN GENERAL.—The Secretary shall issue
22 regulations in accordance with this subsection to
23 provide for the establishment and maintenance of
24 the list under this section, including appropriate due
25 process considerations.

1 (2) TIMING.—

2 (A) PROPOSED REGULATIONS.—Not later
3 than the expiration of the 60-day period begin-
4 ning on the date of the enactment of this Act,
5 the Secretary shall prepare and submit to the
6 appropriate Committees a copy of the regula-
7 tions under this subsection that are proposed to
8 be published for comment. The Secretary may
9 not publish such regulations for comment in the
10 Federal Register until the expiration of the 15-
11 day period beginning upon such submission to
12 the appropriate Committees.

13 (B) FINAL REGULATIONS.—Not later than
14 90 days after the date of the enactment of this
15 Act, the Secretary shall submit to the appro-
16 priate Committees a copy of the regulations
17 under this section to be published as final.

18 (C) EFFECTIVE DATE.—Such regulations
19 shall become effective upon the expiration of the
20 30-day period beginning upon such submission
21 to the appropriate Committees.

22 (3) DEFINITION.—For the purposes of this sec-
23 tion, the term “appropriate Committees” means—

1 (A) the Committee on Financial Services
2 and the Committee on Armed Services of the
3 House of Representatives; and

4 (B) the Committee on Banking, Housing,
5 and Urban Affairs and the Committee on
6 Armed Services of the Senate.

7 **SEC. 111. SENSE OF CONGRESS.**

8 It is the sense of the Congress that the Federal and
9 State agencies responsible for insurance and securities
10 regulation should provide advice to the appropriate Fed-
11 eral entities to consider—

12 (1) significantly increasing the life insurance
13 coverage made available through the Federal Gov-
14 ernment to members of the Armed Forces;

15 (2) implementing appropriate procedures to en-
16 courage members of the Armed Forces to improve
17 their financial literacy and obtain objective financial
18 counseling before purchasing additional life insur-
19 ance coverage or investments beyond those provided
20 by the Federal Government; and

21 (3) improving the benefits and matching con-
22 tributions provided under the Thrift Savings Plan to
23 members of the Armed Forces.

1 **SEC. 112. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 shall apply:

4 (1) ENTITY.—The term “entity” includes insur-
5 ers.

6 (2) INDIVIDUAL.—The term “individual” in-
7 cludes insurance agents and producers.

8 (3) NAIC.—The term “NAIC” means the Na-
9 tional Association of Insurance Commissioners.

10 (4) STATE INSURANCE COMMISSIONER.—The
11 term “State insurance commissioner” means, with
12 respect to a State, the officer, agency, or other enti-
13 ty of the State that has primary regulatory authority
14 over the business of insurance and over any person
15 engaged in the business of insurance, to the extent
16 of such business activities, in such State.

17 **TITLE II—LENDING TO ARMED**
18 **FORCES PERSONNEL**

19 **SEC. 201. REQUIREMENTS APPLICABLE TO CERTAIN LOANS**
20 **TO MILITARY SERVICEMEMBERS.**

21 (a) DEFINITIONS.—For purposes of this section, the
22 following definitions shall apply:

23 (1) MILITARY LENDER.—

24 (A) IN GENERAL.—The term “military
25 lender” means—

1 (i) a person engaged in the business
2 of extending consumer credit that—

3 (I) targets customers who are ac-
4 tive duty members of the Armed
5 Forces; or

6 (II) knows or has reason to know
7 that more than 10 percent of the per-
8 son's customers for consumer credit
9 products are active duty members of
10 the Armed Forces; and

11 (ii) any assignee of such person with
12 respect to any credit extended to any such
13 customer.

14 (B) EXCEPTION.—The term “military
15 lender” does not include any insured depository
16 institution, except as provided in paragraph
17 (3)(B).

18 (C) TREATMENT OF EACH OFFICE AS
19 LENDER.—In the case of any person engaged in
20 the business of extending consumer credit from
21 more than 1 office or at more than 1 location,
22 each office or location at which credit is offered
23 or extended or a credit transaction is con-
24 summated shall be treated as a separate person
25 for purposes of this section.

1 (2) COVERED LOAN.—The term “covered
2 loan”—

3 (A) means any extension of credit to an ac-
4 tive duty member of the Armed Forces by a
5 military lender that has an annual percentage
6 rate that exceeds by more than 5 percentage
7 points the average annual percentage rate for
8 24-month personal loans, as published by the
9 Board of Governors of the Federal Reserve Sys-
10 tem for the most recent calendar quarter pre-
11 ceding the quarter in which such extension of
12 credit is made; and

13 (B) does not include any extension of cred-
14 it on margin on securities by a broker or dealer
15 registered with the Securities and Exchange
16 Commission under the Securities Exchange Act
17 of 1934 to the extent such extension of credit
18 complies with the rules and regulations of the
19 Board of Governors of the Federal Reserve Sys-
20 tem, the Securities and Exchange Commission,
21 and any applicable self-regulatory organization
22 relating to credit on margin on securities.

23 (3) INSURED DEPOSITORY INSTITUTION.—

24 (A) IN GENERAL.—The term “insured de-
25 pository institution”—

1 (i) has the meaning given such term
2 in section 3 of the Federal Deposit Insur-
3 ance Act; and

4 (ii) includes any insured credit union
5 (as defined in section 101(7) of the Fed-
6 eral Credit Union Act).

7 (B) EXCLUSION.—For purposes of this
8 section, the term “insured depository institu-
9 tion” does not include an insured depository in-
10 stitution in any circumstance in which—

11 (i) such depository institution is ex-
12 tending credit pursuant to a contractual
13 relationship with a third-party agent; and

14 (ii) such agent would be a military
15 lender, under this section, if the agent
16 made the same loan as a principal.

17 (4) ACTIVE DUTY MEMBER OF THE ARMED
18 FORCES.—The term “active duty member of the
19 Armed Forces” means any member of the Armed
20 Forces who is on active duty (as defined in section
21 101(d)(1) of title 10, United States Code) under a
22 call or order that does not specify a period of 30
23 days or less.

24 (5) TARGETS CUSTOMERS.—For purposes of
25 paragraph (1)(A)(i)(I), the term “targets cus-

1 tomers” means to, directly or indirectly, solicit, or
2 engage in other promotional activities explicitly di-
3 rected at, members of the Armed Forces for the pur-
4 pose of securing business from the recipients of such
5 solicitations or promotions.

6 (6) ANNUAL PERCENTAGE RATE.—The term
7 “annual percentage rate” has the same meaning as
8 in section 107 of the Truth in Lending Act, as im-
9 plemented by regulations of the Board of Governors
10 of the Federal Reserve System.

11 (b) PROTECTION OF MILITARY SERVICEMEMBERS.—
12 Any military lender who makes a loan to an active duty
13 member of the Armed Forces (other than a loan described
14 in paragraph (2)(B)) may not, with respect to such loan—

15 (1) garnish any military salary or wages, or ac-
16 cept any assignment of or institute any allotment of
17 any military salary or wages, to secure payment of
18 the loan, unless any such allotment or assignment is
19 voluntary and may be cancelled at any time by the
20 borrower;

21 (2) contact, or threaten to contact, the bor-
22 rower’s commanding officer or any other person in
23 the borrower’s military chain of command in an ef-
24 fort to collect on such loan;

1 (3) include any provision in the loan agreement,
2 or in any other instrument or agreement made in
3 connection with such loan, that purports to—

4 (A) waive any rights of the borrower under
5 any Federal or State law, including this section
6 and the Servicemembers Civil Relief Act (50
7 U.S.C. App. 501 et seq.); or

8 (B) provide the consent of the borrower for
9 any action prohibited under paragraph (1);

10 (4) at any time, use oral or written representa-
11 tions, or use any symbols, that suggest, give the ap-
12 pearance, or provide reasonable cause to believe that
13 any component of the Armed Forces, the Depart-
14 ment of Defense, or any federal entity sponsors or
15 endorses the military lender, any agent of the lender,
16 or any good, service, commodity, or credit that is
17 sold, provided, or extended by the military lender
18 (unless expressly authorized in writing by such enti-
19 ty); or

20 (5) if such loan is a covered loan, enter into the
21 loan without disclosing, prior to consummation of
22 the transaction and in conspicuous form, the fol-
23 lowing notice:

24 “NOTICE TO MILITARY SERVICEMEMBERS:

1 “You are not required to complete this
2 agreement merely because you have received
3 these disclosures or even if you have signed an
4 application for an extension of credit. If you ob-
5 tain this credit to repay other loans, you may
6 get into serious financial difficulties if you use
7 this credit to pay off old debts and then replace
8 them with other new debts. Before you complete
9 this agreement, you should consider applying
10 for credit through other organizations or enti-
11 ties. Interest-free loans or grants may be avail-
12 able from the Army, Air Force, or Navy-Marine
13 Corps Relief Society, the United Service Orga-
14 nizations, or another base or military service or-
15 ganization for military personnel seeking short-
16 term credit in response to a family or other
17 emergency.

18 “This extension of credit is not sponsored
19 or endorsed by any component of the Armed
20 Forces, the Department of Defense, or any
21 Federal entity.

22 “Your lender may not garnish your salary
23 or wages, or accept any assignment of or insti-
24 tute an allotment of your salary or wages, to se-
25 cure repayment of the debt, unless any such al-

1 lotment or assignment is voluntary and may be
2 cancelled by you at any time. Your lender may
3 not contact your commanding officer or anyone
4 in your chain of command in an effort to collect
5 on the loan.

6 “You and your dependents may have addi-
7 tional rights and protections under Federal and
8 State law with respect to this loan, including
9 the Servicemembers Civil Relief Act, which you
10 cannot waive and which the lender may not ask
11 or require you to waive.”.

12 (c) RULE OF CONSTRUCTION.—No provision of this
13 section shall be construed as—

14 (1) authorizing any person that is not a mili-
15 tary lender to engage in any activity that is prohib-
16 ited for military lenders under this section;

17 (2) creating any inference that any activity de-
18 scribed in subsection (b) is a lawful activity for any
19 person or would be a lawful activity for a military
20 lender but for this section; or

21 (3) creating any inference that any right or
22 protection provided for consumers under any Fed-
23 eral or State law can be waived by any consumer.

24 (d) ENFORCEMENT.—The provisions of this section
25 shall be enforced under section 917 of the Consumer Cred-

1 it Protection Act, in the manner provided in such section.
2 For the purposes of any enforcement under such section
3 917, any violation of a provision or requirement of this
4 section shall be treated as a violation of a provision or
5 requirement of title IX of such Act.

6 (e) CIRCUMVENTION PROHIBITED.—The Federal
7 Trade Commission shall, with respect to entities and ac-
8 tivities under its jurisdiction, prescribe regulations to be-
9 come effective not later than 90 days after the date of
10 the enactment of this Act to prevent a military lender from
11 taking any action in connection with any loan made to
12 an active duty member of the Armed Forces to structure
13 a loan transaction, by structuring any loan as an open-
14 end credit plan (as defined in section 103 of the Truth
15 in Lending Act), dividing any loan into separate trans-
16 actions, using a lower temporary or introductory rate of
17 interest to lower the overall annual percentage rate appli-
18 cable for any loan, or any similar action, for the purpose
19 of avoiding designation as a covered loan for purposes of

- 1 this section or otherwise circumventing or evading any re-
- 2 quirement of this title.

Passed the House of Representatives June 28, 2005.

Attest: JEFF TRANDAHL,
Clerk.